STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX
Petitioner **File No. 85746-001**

v

Humana Insurance Company
Respondent
_____/

Issued and entered
this 26th day of November 2007
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On October 15, 2007, XXXXX filed a request for external review with the Commissioner of Financial and Insurance Services on behalf of his daughter XXXXX (Petitioner) under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. The Commissioner reviewed the information and accepted the request on October 22, 2007.

The Commissioner notified Humana Insurance Company of the external review and requested the information used in making its adverse determination. The company provided information on October 17, 2007.

The issue here can be decided by an analysis of the terms of the Petitioner's health care coverage. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II
FACTUAL BACKGROUND

The Petitioner, who is eight years old, has peripheral neuropathy for which she received physical therapy from February 6 through June 11, 2007. Humana denied claims for the physical

therapy the Petitioner received from April 2 through June 11, 2007. After the Petitioner appealed, Humana maintained its denial and issued a final adverse determination dated September 28, 2007.

III
ISSUE

Is Humana correct in denying coverage for the Petitioner's physical therapy visits from April 2 through June 11, 2007?

IV
ANALYSIS

Petitioner's Argument

The Petitioner's father says that Dr. XXXXX, M.D., of XXXXX recommended physical therapy for the Petitioner. A proposed treatment plan was developed for the Petitioner and a XXXXX representative contacted Humana to confirm coverage. The Petitioner's father was told that Humana covered physical therapy sessions. He states that neither Humana nor XXXXX told him the Petitioner was limited to 25 physical therapy visits per calendar year.

Claims were submitted for payment but Humana denied those from April through June 2007. The Petitioner is now responsible for charges of $4,197.29.

The Petitioner argues that Humana should be required to pay for her physical therapy treatments because Humana provided incorrect information about her coverage which was accepted in good faith.

Humana Life and Health Insurance Company's Argument

Humana says in their final adverse determination that the Petitioner's benefit plan states in the Schedule of Benefits that 25 physical therapy visits per calendar year are covered. The Petitioner started physical therapy with XXXXX on February 6, 2007. The calendar year benefit of 25 visits was exhausted on April 17, 2007.

Humana further states that the visits beyond the 25 allowed are not covered expenses and excluded form coverage as stated in the policy:

> **LIMITATIONS AND EXCLUSIONS**
> **Other limitations and exclusions**
> Unless specifically stated otherwise, no benefits will be provided for, or on account of, the following items:
> - Expenses for care and treatment on non-covered procedures or services.

Humana argues that it is correct in denying coverage for physical therapy beyond the 25 visits for this calendar year.

Commissioner's Review

The Commissioner has considered the arguments of both parties and reviewed the provisions of the policy. The Petitioner's policy includes the following provision:

> **Physical medicine and rehabilitative services**
> **Speech or cognitive therapy**
> Limited to 30 visits per *year.*
> * * *
> **Other therapy**
> Limited to 25 visits per *year.*

It is regrettable that the Petitioner may have received incomplete information about her physical therapy coverage by phone. The PRIRA process does not allow the Commissioner to make findings of fact about these kinds of disputes – the Commissioner cannot reasonably determine what was said in telephone conversations. Moreover, even if it were possible on this record to assign fault for any alleged miscommunication, a resolution of that issue cannot be the basis of a PRIRA decision because the Commissioner is without authority to order equitable relief. In deciding this case, the Commissioner is bound by the terms and conditions of the Petitioner's health care policy. Although the Petitioner's physician relates the importance of additional physical therapy to the Petitioner's progress, the certificate does not provide unlimited coverage for physical therapy. The Commissioner finds Humana processed the claims correctly according to the terms of the Petitioner's coverage.

V
ORDER

The Commissioner upholds Humana Insurance Company's adverse determination of September 28, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.